



U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED

The Jacob K. Javits Federal Building
26 Federal Plaza, 37th Floor
New York, New York 10278

April 18, 2024

By ECF

The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Robert Menendez, et al.*,
S4 23 Cr. 490 (SHS)

Dear Judge Stein:

The Government respectfully writes in the above-captioned matter to advise the Court that counsel for defendants Robert Menendez, Fred Daibes, and Wael Hana have now executed a stipulation regarding the testimony of Lawrence S. Lustberg, Esq. In light of this development, and on the assumption that the defendants waive their ability to call Mr. Lustberg as a witness at trial, the Government does not presently intend to file a motion to disqualify Mr. Lustberg or his firm.

Consistent with the Court's statements at yesterday's conference, the Government requests that the Court promptly hold an in-person conference at which Menendez, Daibes, and Hana are each asked to "indicate that they agree to the stip, they understand it, they've talked with their lawyers, they agree to waive the right to call Mr. Lustberg at trial or on cross-examination, as well as in any appellate proceedings or any habeas proceedings." (Apr. 17, 2024 Tr. 41). Upon the successful completion of that conference, the Government intends to promptly produce its marked exhibits, witness list, and 18 U.S.C. § 3500 material, consistent with the Court's statement at yesterday's conference that "given the uncertainty of the trial date, unfortunately, at this point, there's no need to turn over the 3500 material, trial exhibits, and witness lists." (*Id.* at 42).

4/18/24
There will be a conference on
April 19th at 10:30 A.M. in Courtroom
23A to address these issues.
So Ordered.
Sidney H Stein
U.S.D.J.

Honorable Sidney H. Stein
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Respectfully submitted,

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cc: (by ECF)

Counsel of Record